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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,909	09/27/2005	Pino Patella	23383	4604

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THE FIRM OF KARL F ROSS
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EXAMINER

KELLEHER, WILLIAM J

ART UNIT PAPER NUMBER

3673

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/550,909

Applicant(s)

PATELLA, PINO

Examiner

Bill Kelleher

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Specification

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

2. The specification is objected to for the following reasons. The specification is replete with terms which are not clear, concise and exact. The specification should be

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revised carefully in order to comply with 35 U.S.C. 112, first paragraph. The specification is generally narrative and indefinite. The specification appears to be a literal translation into English from a foreign document and is replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 2-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The elastic means has been described in terms of where it is connected in relation to other structural members, however, it is unclear to the examiner what is encompassed by elastic means and how the elastic means specifically operates in the invention. For the purposes of compact prosecution, the elastic means will be interpreted as anything that returns to its initial state after being deformed.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim 1 recites the limitations "the joint," "the frame," the headrest," and "the adjacent frame". There is insufficient antecedent basis for these limitations in the claim.

Claim 1 recites "and similar products" in the preamble. It is unclear to the examiner which products are encompassed by similar products.

Claim 1 recites the limitation "a quadrilateral" on three occurrences. It is unclear to the examiner how these quadrilaterals are differentiated from one another. It is also unclear to the examiner how the applicant is using the word quadrilateral. The specification (Page 5, Line 6-7) discloses quadrilateral 17 comprising levers 4, 5, part of lever 23, and part of lever 25. A quadrilateral is typically interpreted as an object with four sides. Therefore, the quadrilaterals as claimed will be interpreted as any combination of members which comprises at least four sides.

Claim 2 recites the limitation "the lever" three times, while Claim 1 recites only one lever. It is unclear to the examiner which lever Claim 2 is referring to.

Claim 3 recites the limitation "said elastic means" and the limitation "the elements." Claim 2 recites two elastic means. It is unclear to the examiner which elastic means Claim 3 is referring to. "The elements" lacks antecedent basis.

Claim 4 recites the limitation "said quadrilateral." It is unclear to the examiner which quadrilateral Claim 4 is referring to.

Claim 6 recites the limitation that a quadrilateral moves synchronically with the rest of the mechanism. It is unclear to the examiner how the applicant is using the word synchronically. For the purposes of compact prosecution, the examiner will interpret this as synchronously.

Claim 7 recites the limitation "said quadrilateral" where various quadrilaterals have already been claimed. It is unclear to the examiner which quadrilateral Claim 7 is referring to. Claim 7 also recites "roto-translative motion." Is it unclear to the examiner what roto-translative motion is. For the purposes of compact prosecution, the examiner will interpret this as anything capable of rotational and translational movement.

Claim 8 recites the limitation "said quadrilateral." It is unclear to the examiner which quadrilateral Claim 8 is referring to.

Claim 11 recites the limitation "said quadrilateral." It is unclear to the examiner which quadrilateral Claim 11 is referring to.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-13 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Zorzetto (European Patent Application EP 0 868 870 A2).

Regarding Claim 1, Zorzetto discloses a mechanism for a sofa bed comprising a number of articulated quadrilaterals and synchronization tools, with at least one lever (20) having an end hinged to the joint (joint between 19 and 20) between the frame, the headrest (4), and the adjacent frame (21); and characterized by the fact that said mechanism comprises a quadrilateral, a quadrilateral and a quadrilateral. First quadrilateral is considered the combination of members 20, 19, 18, 26, 23, and 15. The second quadrilateral is the same members on the opposite side of the mechanism. Zorzetto discloses in Column 2, Lines 15-23 the symmetry of his structure and that the figures only show one side. The third quadrilateral is considered the frame that makes up Zorzetto's sleeping surface.

Regarding Claim 2, Zorzetto (See Figure 3) discloses the mechanism according to claim 1, characterized by the fact that a first retain elastic mean (24) is interposed between the lever (14) and the lever (13), while between the lever (20) and the fixed structure (1) is interposed a second retain elastic mean (16).

Regarding Claim 3, Zorzetto's elastic means is capable of being positioned on any of Zorzetto's elements.

Regarding Claim 4, Zorzetto discloses the mechanism according to Claim 1, characterized by the fact that said quadrilateral (Second quadrilateral labeled on Examiner's Attachment) determines the position of the headrest (4) in the bed configuration, being the headrest in vertical position in the sofa configuration.

Regarding Claim 5, Zorzetto discloses the mechanism according to Claim 1, characterized by the fact that the lifting can be obtained by means of two simple quadrilaterals; said quadrilaterals have one end hinged at the fixed structure, the other end at the frame and are joined each other by means of a lever, which makes synchronous their motion. Zorzetto discloses in Column 2, Lines 15-23 the symmetry of his structure and that the figures only show one side. Therefore, the two simple quadrilaterals (22, and the member on the opposite side which corresponds to 22) are hinged to the fixed structure 1 via 5 and 15 and hinged to the frame 41. It is not explicitly shown by Zorzetto that the simple quadrilaterals are joined for synchronous motion, however, it is inherent that for both symmetrical sides to operate properly in Zorzetto's bed, there will be cross members to join both sides.

Regarding Claim 6, Zorzetto's quadrilaterals move synchronously with the rest of the mechanism.

Regarding Claim 7, Zorzetto discloses a quadrilateral (formed by 20, 19, 18, 26, 23), which is also comprises a 5-hole lever (19, 18, 26, 23), which comprises 5 holes, is hinged to levers 22, and is capable of being rotated and translated.

Regarding Claim 8, Zorzetto discloses a quadrilateral (20, 19, 18, 26, 23, 15) comprising a 4-hole lever (15, 26, 18, 16) directly hinged (where 15 meets 13) to the fixed structure (1) with rotary motion around a point (where 15 meets 13).

Regarding Claim 9, Zorzetto's mechanism performs a particular path (during folding), which raises the mechanism (See Figure 3) to a height above the ground that makes in manageable.

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Regarding Claim 10, Zorzetto's quadrilateral (20, 19, 18, 26, 23, 15) moves the sliding system of seat cushions 32 and 39. The sliding system is considered the system that allows 32 to be rotated away from 32 to be prepared for seating position.

Regarding Claim 11, Zorzetto's quadrilateral (20, 19, 18, 26, 23, 15) moves the seat cushion (32 and 39) by means of only two additional elements (hinges where 26 meets 23, one on each side).

Regarding Claim 12, Zorzetto's lever (15, 26, 18, 16) has at least three holes, one of them (where 26 meets 23) hinges a frame (22) upon which cushions (32 and 39) are placed.

Regarding Claim 13, Zorzetto's mechanism comprises and almost parallelepiped frame structure, a number of movable frames (frames described above), bound together (by hinges described above), moves in the same fashion as claimed, and uses a mechanism according to Claim 1 (as described above).

Conclusion

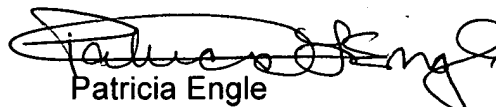
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 5,815,857 to De Lorenzo discloses a sofa bed open and close mechanism.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bill Kelleher whose telephone number is (571)-272-7753. The examiner can normally be reached on Monday - Friday 8:30am - 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571)-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Patricia Engle
Supervisory Patent Examiner
Art Unit 3673

BK



3/3/07